THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16575 OF 2006

18th AUGUST, 2006

BETWEEN

Moulali and others.

… Petitioners

vs

The Joint Collector, Mahaboobnagar District at Mahaboobnagar and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16575 OF 2006

ORDER:

The petitioners are residents of Neradgam village of Magnanoor Mandal in Mahaboobnagar District. They are allegedly owners of agricultural lands admeasuring Acs.0.13 guntas and Acs.15.00 comprised in survey Nos.498 and 499 respectively. They were allegedly drawing water from Government source of irrigation known as Kothacheruvu tank of Neradgam village for the last several years. The petitioners and two others submitted an application to first respondent requesting to classify the petitioners' lands as wet lands under Kothacheruvu. They also approached respondents 2 and 3 with similar applications. It appears the fourth respondent on a request made by respondents 2 and 3, inspected the lands and submitted a report for conversion of petitioners' land into wet lands. The first respondent, however, passed orders on 10.05.2006, dismissing the application. This is assailed in the present writ petition.

The learned counsel for petitioners submits that the fourth respondent is Irrigation Officer under the provisions of A.P. (Telanga

Area) Irrigation Act, 1357 Fasli (Irrigation Act, for short) and therefore, recommendation made by him as well as recommendation made by the Revenue Divisional Officer (RDO) has a great weight to be attached. He would urge that the Joint Collector ignored this aspect of the matter. He contends that petitioners have been drawing water from Kothacheruvu of the village for the last several years and even if water is supplied to their lands, there would be no detriment to other villagers. Learned Assistant Government Pleader for Irrigation opposed the writ petition. He would urge that first respondent considered all aspects of the matter, and therefore, no interference is called for.

'Irrigation Work' is defined in Section 3(a) of the Irrigation Act to include all kuntas, reservoirs, tanks, ayacuts, canals, distributaries, channels and sluices controlled and managed by the Government. As per Section 3(k), 'Irrigation Officer' means an officer of the Public Works Department or Revenue Department appointed by the Government. Part II of the Irrigation Act deals with the Construction and Maintenance of Irrigation Works and Part III deals with Supply of Water. It is provided under Section 19 of the Act that every person desiring to receive water from irrigation work shall submit an application to the Irrigation Officer in the prescribed form. Such application shall be decided by the Irrigation Officer, who may give permission subject to the prescribed conditions and restrictions. Admittedly, the lands owned by the petitioners are dry lands and no permission was ever given by the Irrigation Officer for drawing water from the irrigation work, namely, Kothacheruvu. In this background, if we look at the impugned order, the same does not suffer from any vice. Permission for conversion into wet lands was denied on the ground that priority has to be given to the lands, which are converted as wet lands. Further, in his order, first respondent observed as under.

> The availability of water in the source depends on Hydrological data like Climate, Rainfall in catchments area. Without taking into consideration of the technical data the E.E. basing on the statement of the Ayacutdar simply recommended to convert the dry lands into wet lands.
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> For conversion of dry land into wet, multiple factors like basis of Contiguity, gravity, past use, crop patern, Agronomic practices, nature of soil, should be taken into consideration. Person whose land is not included in the ayacut not entitled to water without prior permission from the competent authority. There is no evidence to show that the pattedars are obtained permission from the competent authority. Priority has to be given to the lands to serve the needs of the cultivators in the Ayacut.
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> The RDO, Narayanpet has not inspected the lands and

submitted the report of the MRO. He has not made any recommendation for Conversion of dry land to wet lands.

While rejecting permission, first respondent has given cogent and convincing reasons and the same are unexceptionable. The writ petition is devoid of any merit and is accordingly dismissed. No costs.

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(V.V.S.RAO,J)

18.08.2006
pln